



Senate

General Assembly

File No. 257

January Session, 2015

Substitute Senate Bill No. 887

Senate, March 26, 2015

The Committee on Banking reported through SEN. WINFIELD of the 10th Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

AN ACT CONCERNING THE FILING OF A MECHANIC'S LIEN.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 49-33 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2015*):

3 (a) If any person, whether classified as an independent contractor or
4 employee, has a claim for more than ten dollars (1) for materials
5 furnished or services rendered in the construction, raising, removal or
6 repairs of any building or any of its appurtenances or in the
7 improvement of any lot or in the site development or subdivision of
8 any plot of land, or (2) for any other service rendered to an owner of
9 land, and the claim is by virtue of an agreement with or by consent of
10 the owner of the land upon which the building is being erected or has
11 been erected or has been moved, or by consent of the owner of the lot
12 being improved or by consent of the owner of the plot of land being
13 improved or subdivided, or of some person having authority from or
14 rightfully acting for the owner in procuring the labor or materials, or
15 by virtue of an agreement with or by consent of the owner of land for

16 whom such other service was rendered, the building, with the land on
17 which it stands or the lot or in the event that the materials were
18 furnished or services were rendered in the site development or
19 subdivision of any plot of land, then the plot of land, is subject to the
20 payment of the claim.

21 (b) The claim is a lien on the land, building and appurtenances or lot
22 or in the event that the materials were furnished or services were
23 rendered in the site development or subdivision of any plot of land,
24 then on the plot of land and the claim takes precedence over any other
25 encumbrance originating after the commencement of the services, or
26 the furnishing of any such materials, subject to apportionment as
27 provided in section 49-36.

28 (c) If any such liens exist in favor of two or more persons for
29 materials furnished or services rendered in connection with the same
30 construction, raising, removal or repairs of any building or any of its
31 appurtenances, or in the improvement of any lot, or in the site
32 development or subdivision of any plot of land, or for any other
33 service rendered to an owner of land, no one of those persons shall
34 have any priority over another except as hereinafter provided.

35 (d) If any instrument constituting a valid encumbrance upon such
36 land other than a mechanic's lien is filed for record while the building
37 is being constructed, raised, removed or repaired, or the lot is being
38 improved, or the plot of land is being improved or subdivided, or
39 while any other service is being rendered to an owner of land, all such
40 mechanic's liens originating prior to the filing of that instrument for
41 record take precedence over that encumbrance and no such mechanic's
42 lien shall have priority over any other such mechanic's lien. That
43 encumbrance and all such mechanic's liens shall take precedence over
44 any mechanic's lien which originates for materials furnished or
45 services rendered after the filing of that instrument for record, but no
46 one of the mechanic's liens originating after the filing of that
47 instrument for record has precedence over another. If any lienor
48 waives or releases his lien or claim of precedence to any such

49 encumbrance, that lien shall be classed with and have no priority over
50 liens originating subsequent to that encumbrance.

51 (e) A mechanic's lien shall not attach to any such building or its
52 appurtenances or to the land on which the same stands or to any lot or
53 to any plot of land, in favor of any subcontractor to a greater extent in
54 the whole than the amount which the owner has agreed to pay to any
55 person through whom the subcontractor claims subject to the
56 provisions of section 49-36.

57 (f) Any such subcontractor shall be subrogated to the rights of the
58 person through whom the subcontractor claims, except that the
59 subcontractor shall have a mechanic's lien or right to claim a
60 mechanic's lien in the event of any default by that person subject to the
61 provisions of sections 49-34, as amended by this act, 49-35, as amended
62 by this act, and 49-36, provided the total of such lien or liens shall not
63 attach to any building or its appurtenances, or to the land on which the
64 same stands or to any lot or to any plot of land, to a greater amount in
65 the whole than the amount by which the contract price between the
66 owner and the person through whom the subcontractor claims exceeds
67 the reasonable cost, either estimated or actual, as the case may be, of
68 satisfactory completion of the contract plus any damages resulting
69 from such default for which that person might be held liable to the
70 owner and all bona fide payments, as defined in section 49-36, made
71 by the owner before receiving notice of such lien or liens.

72 (g) In the case of the removal of any building, no such mechanic's
73 lien shall take precedence over any encumbrance upon the land to
74 which such building has been removed which accrued before the
75 building was removed upon the land.

76 (h) If any person has a claim for more than ten dollars for materials
77 furnished or services rendered in the construction, raising, removal or
78 repairs of any real property, and the claim is by virtue of an agreement
79 with or by consent of the lessee of such real property or of some person
80 having authority from or rightfully acting for such lessee in procuring
81 the materials or labor, then the leasehold interest in such real property

82 is subject to the payment of the claim. This subsection shall not be
83 construed to limit any of the rights or remedies available to such
84 person under subsection (a) of this section.

85 (i) Any mechanic's lien may be foreclosed in the same manner as a
86 mortgage.

87 Sec. 2. Section 49-34 of the general statutes is repealed and the
88 following is substituted in lieu thereof (*Effective October 1, 2015*):

89 A mechanic's lien is not valid unless the person performing the
90 services or furnishing the materials (1) within ninety days after he has
91 ceased to do so, lodges with the town clerk of the town in which the
92 building, lot or plot of land is situated a certificate in writing, which
93 shall be recorded by the town clerk with deeds of land, (A) describing
94 the premises, the amount claimed as a lien thereon, the name or names
95 of the person against whom the lien is being filed and the date of the
96 commencement of the performance of services or furnishing of
97 materials, (B) stating that the amount claimed is justly due, as nearly as
98 the same can be ascertained, and (C) subscribed and sworn to by the
99 claimant, [and] (2) not later than thirty days after lodging the
100 certificate, serves a true and attested copy of the certificate upon the
101 owner of the building, lot or plot of land in the same manner as is
102 provided for the service of the notice in section 49-35, as amended by
103 this act, and (3) holds the appropriate registration or license to perform
104 the services.

105 Sec. 3. Section 49-35 of the general statutes is repealed and the
106 following is substituted in lieu thereof (*Effective October 1, 2015*):

107 (a) No person other than the original contractor for the construction,
108 raising, removal or repairing of the building, or the development of
109 any lot, or the site development or subdivision of any plot of land, or
110 for any other service rendered to an owner of land or a subcontractor
111 whose contract with the original contractor is in writing and has been
112 assented to in writing by the other party to the original contract, is
113 entitled to claim any such mechanic's lien, unless, after commencing,

114 and not later than ninety days after ceasing, to furnish materials or
115 render services for such construction, raising, removal or repairing,
116 such person gives written notice to the owner of the building, lot or
117 plot of land and to the original contractor that he or she has furnished
118 or commenced to furnish materials, or rendered or commenced to
119 render services, and intends to claim a lien therefor on the building, lot
120 or plot of land; provided an original contractor shall not be entitled to
121 such notice, unless, not later than fifteen days after commencing the
122 construction, raising, removal or repairing of the building, or the
123 development of any lot, or the site development or subdivision of any
124 plot of land, or any other service rendered to an owner of land, such
125 original contractor lodges with the town clerk of the town in which the
126 building, lot or plot of land is situated an affidavit in writing, which
127 shall be recorded by the town clerk with deeds of land, (1) stating the
128 name under which such original contractor conducts business, (2)
129 stating the original contractor's business address, and (3) describing
130 the building, lot or plot of land. The right of any person to claim a lien
131 under this section shall not be affected by the failure of such affidavit
132 to conform to the requirements of this section. The notice shall be
133 served upon the owner or original contractor, if such owner or original
134 contractor resides in the same town in which the building is being
135 erected, raised, removed or repaired or the lot is being improved, or
136 the plot of land is being improved or subdivided, by any indifferent
137 person, state marshal or other proper officer, by leaving with such
138 owner or original contractor or at such owner's or the original
139 contractor's usual place of abode a true and attested copy thereof. If
140 the owner or original contractor does not reside in such town, but has
141 a known agent therein, the notice may be so served upon the agent,
142 otherwise it may be served by any indifferent person, state marshal or
143 other proper officer, by mailing a true and attested copy of the notice
144 by registered or certified mail to the owner or original contractor at the
145 place where such owner or the original contractor resides. If such copy
146 is returned unclaimed, notice to such owner or original contractor shall
147 be given by publication in accordance with the provisions of section 1-
148 2. When there are two or more owners, or two or more original

149 contractors, the notice shall be so served on each owner and on each
150 original contractor. The notice, with the return of the person who
151 served it endorsed thereon, shall be returned to the original maker of
152 the notice not later than thirty days after the filing of the certificate
153 pursuant to section 49-34, as amended by this act.

154 (b) No subcontractor, without a written contract complying with the
155 provisions of this section, and no person who furnishes material or
156 renders services by virtue of a contract with the original contractor or
157 with any subcontractor, may be required to obtain an agreement with,
158 or the consent of, the owner of the land, as provided in section 49-33,
159 as amended by this act, to enable him to claim a lien under this section.

This act shall take effect as follows and shall amend the following sections:

Section 1	October 1, 2015	49-33
Sec. 2	October 1, 2015	49-34
Sec. 3	October 1, 2015	49-35

Statement of Legislative Commissioners:

In section 1(d), "to an owner of land" was added for statutory consistency.

BA *Joint Favorable Subst.*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note***State Impact:*** None***Municipal Impact:*** None***Explanation***

The bill expands the type of work that can be subject to a mechanic's lien and requires that the lien can only be placed by a registered or licensed service provider and does not result in a state or municipal fiscal impact.

The Out Years***State Impact:*** None***Municipal Impact:*** None

OLR Bill Analysis**sSB 887*****AN ACT CONCERNING THE FILING OF A MECHANIC'S LIEN.*****SUMMARY:**

This bill broadens the scope of work that can be the subject of a mechanic's lien. It allows any employee or independent contractor who provides a service for a landowner under an agreement to file such a lien on the property.

Currently, a person can file a mechanic's lien if he or she has a claim for materials or services provided under an agreement to a land owner related to constructing, raising, removing, or repairing a building and related structures; improving a lot; site development; or subdivision of land. The bill specifies that these individuals can file a lien whether they are employees or independent contractors.

For all of those described above, the bill requires an appropriate registration or license to perform the service provided in order for the person to have a valid lien.

By law, a mechanic's lien is a lien on property for the value of work performed or materials provided. It is recorded on the land records and can be foreclosed like a mortgage.

EFFECTIVE DATE: October 1, 2015

SERVICE PROVIDERS

The bill expands the scope of work that can be the subject of a mechanic's lien to include services for a landowner that are not related to constructing, raising, removing, or repairing a building and related structures; improving a lot; site development; or subdivision of land.

As for other mechanic's liens, the bill requires the claim to be for at

least \$10 and the services to have been provided under an agreement or with consent of the land owner or someone acting with the owner's authority.

The bill applies the existing rules governing mechanic's liens to these service providers including recording the lien when the lien takes precedence over other claims; apportionment among multiple mechanic's liens; subcontractors' ability to obtain a mechanic's lien under certain circumstances; and court procedures to foreclose or discharge the lien, reduce an excessive lien, or order a surety bond posed in place of the lien.

COMMITTEE ACTION

Banking Committee

Joint Favorable Substitute

Yea 17 Nay 0 (03/10/2015)